

ESTTA Tracking number: **ESTTA728793**

Filing date: **02/23/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	SUSHI SHOP NE USA c/o Sushi Shop Group
Granted to Date of previous extension	02/24/2016
Address	116 rue du Faubourg Saint Martin F-75010 Paris, FRANCE

Attorney information	Robyn S. Lederman Brooks Kushman, P.C. 1000 Town Center, 22nd Floor Southfield, MI 48075 UNITED STATES trademarks@brookskushman.com, rlederman@brookskushman.com, dbailey@brookskushman.com, rcantor@brookskushman.com, ejbrooks@brookskushman.com Phone:248 358 4400
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Applicant Information

Application No	86687243	Publication date	10/27/2015
Opposition Filing Date	02/23/2016	Opposition Period Ends	02/24/2016
Applicant	R2A INC 2525 BURGNER BLVD SAN DIEGO, CA 92110 UNITED STATES		


Goods/Services Affected by Opposition

Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: On-line ordering services in the field of restaurant take-out and delivery; Restaurant franchising, namely, offering business management assistance in the establishment and/or operation of restaurants
Class 043. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Bar and restaurant services; Restaurant; Restaurant services featuring JAPANESECUISINE; Restaurants; Restaurants featuring home delivery; Take-out restaurant services

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3933843	Application Date	02/09/2010
Registration Date	03/22/2011	Foreign Priority Date	NONE
Word Mark	SUSHISHOP		
Design Mark			
Description of Mark	The mark consists of the wording "SUSHISHOP" below the stylized design of a fish surrounded by a circle.		
Goods/Services	<p>Class 029. First use: First Use: 0 First Use In Commerce: 0 Meat, fish, poultry and game, sashimi, prepared meals consisting primarily of fish, fish fillets; prepared meals consisting primarily of seafood, preserved fruits, vegetables or fish; meat extracts; preserved, dried and cooked fruit and vegetables; jellies, jams, compotes; eggs, milk and dairy products excluding ice cream, ice milk and frozen yogurt; butter, cheeses; edible oils and fats; edible-fats; charcuterie, salted meats, crustaceans not live; salads except macaroni, rice and pasta salads, vegetables salad</p> <p>Class 030. First use: First Use: 0 First Use In Commerce: 0 Sushi, maki, namely, spring rolls, prepared meals consisting primarily of sushi, dressings for salads</p> <p>Class 035. First use: First Use: 0 First Use In Commerce: 0 Advertising; business management; business administration; providing office functions; outdoor advertising, advertising agencies, dissemination of advertisements for others, direct mail advertising services, product demonstration, distribution of samples, dissemination of advertising material in the nature of leaflets, prospectuses, printed matter and samples; updating of advertising material; document reproduction; computer file management; organization of exhibitions for commercial or advertising purposes, publishing of advertising texts, advertisement services by mail, radio and television; rental of advertising space; business management of performing artists; market study; market research; business management assistance; public opinion polling; sales promotion for others; public relations; retail store services featuring sushi, maki in the nature of spring roll and sashimi; retail store services featuring fish, sushi, maki in the nature of spring rolls, sashimi and other prepared dishes to take away</p> <p>Class 038. First use: First Use: 0 First Use In Commerce: 0 Telecommunication services, namely, call hunting; electronic transmission of images, sounds, information and data by telephone and data communication or</p>		

	<p>computer means; transmission, namely, communication via computer terminals; telecommunication services, namely, providing telecommunication connections to the internet or database and electronic mail services via a global world communication network in the nature of Internet or via a local network in the nature of an intranet; transmission of commercial and/or advertising data via the Internet; transmission of information via electronic catalogues on the Internet</p> <p>Class 039. First use: First Use: 0 First Use In Commerce: 0</p> <p>Transport by ferry, boat, road, air andrail, packaging of goods to the order and specification of others; storage of goods, packaging, transport and home delivery of food products, beverages, sushi,maki, sashimi and other ready-cooked meals</p> <p>Class 043. First use: First Use: 0 First Use In Commerce: 0</p> <p>Providing food and drink, namely, restaurant services; providing temporary accommodation; bar services; caf��-restaurants; cafeterias, canteen services, self-service restaurants, fast-food restaurantsand snackbars; providing of food and drinks including meals; hotel services; catering services; services of sandwich shops, namely, delicatessens</p>
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Attachments	<p>79081422#TMSN.png(bytes)</p> <p>Notice of Opposition Sushi Co and Design (2).pdf(70346 bytes)</p>
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/rlederman/
Name	Robyn S. Lederman
Date	02/23/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Trademark Application

Serial No.: **86/687,243**

Filed: **July 8, 2015**

Trademark: **SUSHI CO.**

Published in the Official Gazette on December 1, 2015

Sushi Shop NE USA c/o Sushi Shop Group,)	
)	
Opposer,)	
)	Serial No. 86/687,243
v.)	
)	
R2A Inc. d/b/a Sushi Company,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

VIA ELECTRONIC FILING
Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Sir/Madam:

Opposer, Sushi Shop NE USA c/o Sushi Shop Group, a corporation organized in France, having a principal place of business at 116 rue du Faubourg Saint Martin, F-75010 Paris, France (“Opposer”), believes that it is and will continue to be damaged by registration of the mark SUSHI CO. & Design in the name of R2A Inc. d/b/a Sushi Company (“Applicant”) shown in U.S. Trademark Application Serial No. 86/687,243, and hereby opposes the same.

Requests for extensions of time to oppose were filed on December 18, 2015 and November 23, 2015 and were granted, extending the time to file to February 24, 2016.

As grounds of opposition, Opposer alleges that:

1. Opposer owns and operates restaurants throughout the world and offers food and beverage-related goods and services, including in the USA, under its SUSHI SHOP & Design mark, shown below:



2. Opposer filed its SUSHI SHOP & Design trademark application in the USA on February 9, 2010.

3. Opposer has expended considerable time, effort and expense in advertising and promoting its SUSHI SHOP & Design mark and the goods and services associated therewith in the United States and worldwide, with the result that the purchasing public has come to know and recognize products and services of the Opposer by the SUSHI SHOP & Design mark. The Opposer has exceedingly valuable goodwill established in its SUSHI SHOP & Design mark.

4. Opposer is the owner of U.S. Trademark Registration No. 3,933,843 for the mark SUSHI SHOP & Design covering goods and services in International Classes 29, 30, 35, 38, 39 and 43 including, "providing food and drink, namely, restaurant services". This Registration is valid, subsisting, uncanceled and unrevoked. The SUSHI SHOP & Design mark was registered

on March 22, 2011 and claims priority to International Trademark Registration No. 0944708A, dated May 25, 2007.

5. On July 8, 2015, Applicant filed a trademark application seeking to register the mark SUSHI CO. & Design for “On-line ordering services in the field of restaurant take-out and delivery; Restaurant franchising, namely, offering business management assistance in the establishment and/or operation of restaurants” in International Class 35 and “Bar and restaurant services; Restaurant; Restaurant services featuring JAPANESE CUISINE; Restaurants; Restaurants featuring home delivery; Take-out restaurant services” in International Class 43. Applicant’s SUSHI CO. and Design mark is shown below as evidenced by publication of the mark in the Official Gazette on October 27, 2015:



6. Upon information and belief, Applicant’s application for SUSHI CO. & Design has been assigned Serial No. 86/687,243.

7. There is no issue as to priority. Opposer is the rightful owner and filed, registered and used the SUSHI SHOP & Design mark in connection with its goods and services prior to the Applicant’s July 8, 2015 filing date.

8. Upon information and belief, Applicant did not use its SUSHI CO. & Design mark prior to Opposer’s first use of SUSHI SHOP & Design.

9. Applicant’s SUSHI CO. & Design mark is virtually identical and/or a close approximation of the Opposer’s senior SUSHI SHOP & Design mark.

10. Because the purchasing public has come to recognize and associate the goods and services of Opposer by the SUSHI SHOP & Design mark, Applicant's proposed SUSHI CO. & Design mark would be recognized as uniquely and unmistakably identifying or suggesting a connection to Opposer.

11. Opposer has not authorized nor is it connected with the activities performed or goods sold (or intended to be sold or performed) by Applicant under its SUSHI CO. & Design mark.

12. The fame and reputation of Opposer is such that, if Applicant's SUSHI CO. & Design mark is used with Applicant's designated goods and services, a connection with Opposer will be presumed.

13. Applicant's SUSHI CO. & Design mark in Application No. 86/687,243 so resembles Opposer's SUSHI SHOP & Design mark and the goods and services identified are identical or so closely related to the goods and services of the Opposer as to be likely, when used in connection with Applicant's goods and services, to cause confusion, or to cause mistake, or to deceive in violation of Section 2(d) of the Lanham Act, 15 USC §1052(d).

14. Applicant's SUSHI CO. & Design mark in Application Nos. 86/687,243 so resemble Opposer's SUSHI SHOP & Design mark and the goods and services identified are identical or so closely related to the goods and services of the Opposer as to be likely, when used in connection with Applicant's goods and services, to falsely suggest a connection with Opposer in violation of Section 2(a) of the Lanham Act, 15 USC §1052(a).

15. If the Applicant were granted the registration herein opposed, it would obtain at least a *prima facie* exclusive right to use of the SUSHI CO. & Design mark in connection with

the designated services. Such registration would be a source of injury and damage to the Opposer's prior and established rights in its SUSHI SHOP & Design mark.

WHEREFORE, Opposer respectfully requests that registration of the SUSHI CO. & Design mark under Application Serial No. 86/687,243, be refused and that this opposition be granted.

The fee required under 37 C.F.R. § 2.6(a)(17) is being paid electronically concurrently with the filing of this Notice of Opposition. If the filing fee is found to be insufficient for any reason, please charge such deficiency to the deposit account.

Respectfully submitted,

By: /Robyn Lederman /
Robyn S. Lederman
Rebecca J. Cantor

Attorneys/Agents for Opposer

Date: February 24, 2016

BROOKS KUSHMAN P.C.
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Southfield, MI 48075
Phone: 248-358-4400
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CERTIFICATE OF SERVICE

I certify that I served:

NOTICE OF OPPOSITION

On February 24, 2016 by First Class Mail and email to:

Jackson MacDonald
BreanLaw Trademark Law Firm
P.O. Box 4120
ECM # 72065
Portland, Oregon 97208
tmsupport@breanlaw.com

Attorney/Agent for Applicant R2A Inc. d/b/a Sushi Company

By: /Robyn S. Lederman/
Robyn S. Lederman
Attorney/Agent for Opposer